UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----X

UNITED STATES OF AMERICA,

v.

LUIS HERNANDEZ

Defendant.
-----X

APPLICATION AND ORDER OF EXCLUDABLE DELAY

10-M-439

The United States of America and the defendant Luis Hernandez hereby jointly request that the time period from May 20, 2010 to June 21 2010 be excluded in computing the time within which an information or indictment must be filed. *The parties seek the foregoing exclusion of time in order because*

(X) *they are engaged in plea negotiations, which they believe are likely to result in a disposition of this case without trial, and they require an exclusion of time in order to focus efforts on plea negotiations without the risk that they would not, despite their diligence, have reasonable time for effective preparation for trial,*

( ) *they need additional time to investigate and prepare for trial due to the complexity of case,*

( ) ____________________

This is the *(circle one)* first/second application for entry of an order of excludable delay. The defendant was arrested on April 23 2010 and released on April 23 2010.

[signature]
Assistant U.S. Attorney

[signature]
Counsel for Defendant

For defendant to read, review with counsel, and acknowledge:

I understand that federal law generally provides that I have a right to have formal charges lodged against me within thirty days of my arrest and a right to a trial on those charges within seventy days after formal charges have been lodged. I further understand that I do not have to consent to the exclusion of time sought in this application and that, by consenting to entry of this order, the date on which formal c arges must be lodged will be delayed and the date for the commencement of any trial on those charges v ill likely be delayed as well. I also understand that if formal charges are not brought against me within the ime required by law, I may seek relief from the court, and that this relief might include dismissal of th complaint now pending against me.

I have reviewed this application, as well as the order annexed below, and have discussed he question of whether I should consent to entry of an order of excludable delay carefully with my at orney. I consent to the entry of the order voluntarily and of my own free will. I have not been threatened r coerced for my consent.

5/21/10 X Luis Hernandez
Date Defendant

For Defendant's Counsel to read and acknowledge:

I certify that I have reviewed this application and the attached order carefully with my client. I fi rther certify that I have discussed with my client a defendant's right to speedy indictment and the ques ion of whether to consent to entry of an order of excludable delay. I am satisfied that my client underst nds the contents of this application and the attached order, that my client consents to the entry of the ord r voluntarily and of his or her own free will, and that my client has not been threatened or coerced for consent.

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ORDER OF EXCLUDABLE DELAY

Upon the joint application of the United States of America and defendant Luis Hernandez ______________, and with the express written consent of the defendant, the time period rom May 21, 2010 to June 21, 2010 is hereby excluded in computing the tin within which an information or indictment must be filed, as the Court finds that this exclusion of time erves the ends of justice and outweighs the best interests of the public and the defendant in a speedy trial ecause

(✓) given the reasonable likelihood that ongoing plea negotiations w ll result in a disposition of this case without trial, the exclusion of time w ll allow all counsel to focus their efforts on plea negotiations without the risk th t they would be denied the reasonable time necessary for effective preparation for trial, taking into account the exercise of due diligence.

( ) *additional time is needed to prepare for trial due to the comp lexity of case.*

( ) ______________________________

SO ORDERED.

Dated: Brooklyn, New York
May 21, 2010

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s/ Pohorelsky